

BRIAN BRITURE PRUDE, #720851	§	
VS.	§	CIVIL ACTION NO. 9:10cv1
ALICIA BRICE, ET AL.	§	

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drawn therefrom in the light most favorable to the non-moving party; after such examination, summary judgment is proper if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Securities and Exchange Commission v. Recile*, 10 F.3d 1093, 1097 (5th Cir. 1994); *General Electric Capital Corp. v. Southeastern Health Care, Inc.*, 950 F.2d 944, 948 (5th Cir. 1992); Fed. R. Civ. P. 56(c).

The Fifth Circuit has held that summary judgment disposition is inappropriate if the evidence before the Court, viewed as a whole, could lead to different factual findings and conclusions. *Honore v. Douglas*, 833 F.2d 565, 567 (5th Cir. 1987). The Court noted that “[i]t is not the function of the trial judge, in ruling on a motion for summary judgment, to weigh evidence, assess credibility, or determine the most reasonable inference to be drawn from the evidence.” *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986)). In this case, Plaintiff’s motion for summary judgment consists of six pages of unsupported contentions, simply asking that the Court believe his version of events and grant summary judgment on that basis. He spends two pages specifying the type and amount of damages he seeks, under the widest possible variety of damages theories. He also asks that Defendant Officer Brice and the two inmates he formerly named as Defendants<sup>1</sup> be prosecuted for conspiracy and using a prison mental health department as a “cover-up for criminal activity.” Mot. at 2. Further, he seeks to be moved from state custody to federal custody.

Plaintiff has filed no evidence of any kind, whether affidavits, depositions, admissions, or

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<sup>1</sup> The Court has dismissed both inmates Dennis Jackson and Rodney Rodgers from this action in its order of partial dismissal issued on May 24, 2010 (docket entry #21).

any other type of evidence to show that there is no genuine issue of material fact or that he is entitled to judgment as a matter of law. He has likewise failed to cite anything in the record to support the bare allegations of his motion. This is not a proper foundation for summary judgment.

Accordingly, it is therefore

**ORDERED** that Plaintiff's motion for summary judgment (docket entry #28) is **DENIED**.

So **ORDERED** and **SIGNED** this **26** day of **July, 2010**.

  
JUDITH K. GUTHRIE  
UNITED STATES MAGISTRATE JUDGE